



Doc Code: AP.PRE.REQ

PTO/SB/33 (07/05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

0001589USU

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR

on May 12, 2006

Signature

Typed or printed
nameJennifer Sheridan

Application Number

09/924,259

Filed

August 7, 2001

First Named Inventor

Daniel LYAKOVETSKY

Art Unit

2162

Examiner

Anh LY

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.Registration number 28,468☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Charles N.J. Ruggiero

Typed or printed name

203-327-4500

Telephone number

May 12, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lyakovetsky et al.
Serial No.: 09/924,259
For: EMULATION PROCESS FOR MAKING CHANGES AND
REVISIONS TO COMPUTER DATA FILES
Filed: August 7, 2001
Examiner: Anh Ly
Art Unit: 2162
Confirmation No.: 4902
Customer No.: 27,623

Attorney Docket No.: 0001589USU/2257

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants are submitting the present document concurrently with a notice of appeal for the above-noted application. Applicants are requesting that the Office review the rejection of the claims as set forth in a final office action dated January 12, 2006 (hereinafter "the Office Action"). No amendments are being filed with this request.

Status of the Claims

Claims 1 through 3, 6, 7 and 9 through 33 are pending in the present application. Claims 4, 5 and 8 are canceled.

On April 4, 2005, Applicants mailed a response that included an amendment to the claims. On May 10, 2005, in response to a Notice of Non-Compliant Amendment, Applicants resubmitted the amendment. On April 6, 2006, Applicants submitted an amendment (after final), but the Office did not enter the amendment. Accordingly, the pending claims are as presented on May 10, 2005.

Clear Errors in the Examiner's Rejection

In section 7 of the Office Action, claims 1 – 3, 6, 7 and 9 – 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,549,216 to Schumacher et al. (hereinafter "the Schumacher et al. patent") in view of U.S. Patent Application Publication No. 2003/0154172 to Guyan et al. (hereinafter "the Guyan et al. publication"). Claims 1, 11, 16 and 21 are independent claims.

Claim 1 provides for a process for automatically revising data in a database of file records stored in a computer. The process includes, *inter alia*, (a) recording in a memory, a response to an event, wherein the response is performed by a human operator interacting with a graphical user interface of a computer, to form one or more emulated responses to the event, wherein the one or more emulated responses are stored in an emulated event handler, and (b) executing a task by matching a member of a collection of emulated event handlers to a given event.

The Schumacher et al. patent is directed toward a system and method for recording user interface events (col. 1, lines 19 – 21), and more particularly, recording events that result from user interaction with various components of an applet (col. 2, lines 15 – 16). With reference to FIG. 2, the Schumacher et al. patent states, at col. 5, lines 45 – 48:

When a recorded sequence of events is desired for playback at a later time, applet event recorder 100 retrieves the recorded events via Load button 216 and initiates the playback with Run button 212 (emphasis added).

Thus, in the Schumacher et al. patent, a playback of a recorded event is manually initiated by a user.

The Guyan et al. publication discloses a use of event handlers (par. 0170). However, according to the last line of paragraph 0171, such an event handler is written. For example, paragraphs 0210 – 0212 disclose, and provide an example of coding for, a general error event handler. The Guyan et al. publication also explains that a component or a controller will call the GeneralErrorHandler when it encounters any type of unexpected or unknown error (par. 0211). Thus, the Guyan et al. patent discloses event handlers that handle operations that are ordinarily performed by a computer, (e.g., a general error) and that are automatically invoked by the computer.

The following table shows several points of contrast between features of the Schumacher et al. patent and the Guyan et al. publication.

Schumacher et al. patent	Guyan et al. publication discloses
(1) recording events	(1) event handlers are written
(2) events result from user interaction	(2) operations ordinarily performed by a computer
(3) playback of a recorded event being manually initiated by a user	(3) event handlers are automatically invoked by a computer

Not only do the features of Schmacher et al. patent and the Guyan et al. publication contrast with one another, each of the Schumacher et al. patent and the Guyan et al. publication purport to present a system that provides an end-to-end solution. That is, (A) the Schumacher et al. patent discloses recording an event and a playback of the event, and (B) the Guyan et al. publication discloses writing an event handler and automatic invocation of the event handler. Neither of the Schumacher et al. patent nor the Guyan et al. publication suggest a problem that would motivate a person to seek out a solution being provided by the other. Consequently, there is **no motive** for the Schumacher et al. patent and the Guyan et al. publication to be combined with one another. More particularly, there is no motive for the Schumacher et al. patent and the Guyan et al. publication **to be combined with one another to provide** a process that includes (a) recording a

response to an event, wherein the response is **performed by a human operator** interacting with a graphical user interface of a computer, to form one or more **emulated responses** to the event, wherein the one or more emulated responses are stored in an emulated event handler, and (b) executing a task by matching a member of a collection of **emulated event handlers** to a given event, as recited in claim 1.

Whereas the cited combination of references does not provide a motive to be combined, Applicants suspect that the cited combination is a result of **hindsight reconstruction** on the part of the Office. That is, the Office, given the benefit of the present application, has imputed a motive for the combination of references, whereas in fact, no such motive exists. Applicants respectfully submit that lacking the disclosure of the present application, a person skilled in the art would not have combined the Schumacher et al. patent and the Guyan et al. publication to yield the subject matter of claim 1.

Additionally, whereas the event handlers of the Guyan et al. publication are automatically invoked by the computer, an integration of the event handlers of the Guyan et al. publication into the system described in the Schumacher et al. patent would obviate the playback feature of the system in the Schumacher et al. patent, thus changing the principle of operation of the system in the Schumacher et al. patent, and arguably, rendering the system in the Schumacher et al. patent unsuitable for its intended purpose. As such, the Schumacher et al. patent and the Guyan et al. publication **cannot be combined for purposes of a section 103(a) rejection**.

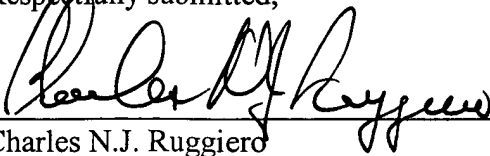
In view of the reasoning provided above, Applicants submit that claim 1 is patentable over the cited combination of the Schumacher et al. patent and the Guyan et al. publication.

Claims 12, 17 and 22 depends from claims 11, 16 and 21, respectively. Applicants submit that claims 12, 17 and 22, when considered in light of their respective underlying independent claims, recite features similar to those of claim 1, as described above. Accordingly, Applicants submit that claims 12, 17 and 22, for reasoning similar to that provided in support of claim 1, are also patentable over the cited combination of references.

In view of the foregoing, Applicants respectfully request a withdrawal of the finality of the Office Action.

May 12, 2006
Date

Respectfully submitted,



Charles N.J. Ruggiero

Reg. No. 28,468

Attorney for the Applicants

Ohlandt, Greeley, Ruggiero & Perle, L.L.P.

One Landmark Square, 10th Floor

Stamford, CT 06901-2682

Tel: 203-327-4500

Fax: 203-327-6401